

**LAKE COUNTY BOARD of ADJUSTMENT**  
**October 11, 2017**  
**Lake County Courthouse Commissioners Office (Rm 211)**  
**Meeting Minutes**

**MEMBERS PRESENT:** Don Patterson, Frank Mutch, Steve Rosso, Merle Parise, Mary Jensen

**STAFF PRESENT:** Jacob Feistner, Rob Edington, Clint Evenson, Lita Fonda; Wally Congdon

Frank Mutch called the meeting to order at 4:02 pm

**MURPHY CONDITIONAL USE—EAST SHORE (4:02 pm)**

Rob Edington presented the staff report. (See attachments to minutes in the October 2017 meeting file for staff report.)

Mike Murphy spoke about his application. He wasn't aware of the trailer thing when he started. Don Wood saw it there when he started so he assumed he could keep it there. He left in the winters. It was brought to his attention at some point and Randy [Snyder, agent] addressed it with a letter, from his understanding. It seemed to go away until he started the boundary line adjustment so his neighbor could have a place to turn around and back up. He'd tried to enhance this property from day one. He spent \$50,000 doing blueprints and planning with George Gibson to build a home, prior to the recession, a stroke and other things going wrong. He left the trailer there, which they used in the summer. He didn't want dirt in the lake and even landscaped the part where the roads came down and washed dirt in. He showed a photo to the Board and described features, such as a storage shed of about 120 square feet that was on skids. It was temporary and designed to be moved. He showed a picture of the trailer and vegetation. This [trailer] was there from 2006. The original one was there in 2003. He'd put it back there so both he and the neighbors would have privacy. Mary mentioned that the Board had photos of those. [Editor's note: Mike had one copy of each of his photo; these were not handed out and attachments to the minutes do not include a copy.]

Mike described that you couldn't see the trailer from the lake. The property had been for sale previously and would be for sale again, probably at the end of next summer if not sooner so [the trailer] wouldn't be there much longer. He would like to be able to use it, hopefully through next year. He would remove it then.

Steve asked about the stipulation to remove the temporary dwelling for 30 days after it was in place for 5 months, and then being able to bring it back. Mike reiterated the background he'd described and described landscaping, connected pipes for sewer treatment and water, and connected electric. It would be a big deal to pull it out. He left in the winter and planned to do so this winter. Mike agreed with Steve that it would be hard for him to meet that condition if it were a condition of the conditional use. Frank asked if he was asking for a permanent trailer. Mike said he had house plans/blueprints

but his plans changed. He wanted to enjoy [the property] at the lake until he sold it. There was a cloud on the title unless he did the boundary line adjustment. He planned to haul the trailer out of there at that time. Someone would get a nice home there.

Mary asked if zoning regulations required a permit to have a temporary dwelling for a specific permit of time. Rob pointed to item EE on pg. 12 of the staff report for the definition of a temporary dwelling in East Shore zoning, and read it. Temporary dwellings were listed on pg. 2 under V. Conditional Use, which was today's application. Steve thought there were two options, with the question of when the clock started. One option was to leave it there permanently for two years, then take it out forever. The other option was to leave it there for 5 months and remove it for 30 days, and that could be done indefinitely. The idea was that if it was there continuously, it was a temporary dwelling while you were building another structure, whether you got it built or not. If the applicant selected the 2-year continuous period, the temporary dwelling would have to come out. Rob confirmed that this was the way he interpreted it. Nothing prevented you from storing an RV on a property if you weren't using it. He thought variances had been requested along this line but he didn't know the history behind those. A consideration would be ensuring that it met setbacks. A variance might be possible on the length of time if they were able to demonstrate a hardship. He would need more information.

Steve asked about when the clock started if this temporary dwelling or a previous one had been there for the last 12 years or so. Jacob thought that would be the Board's decision. Planning staff had sent a letter in January 2016 to inform the applicant that he needed approval. They could go from that. Frank verified with Jacob that if he took the 2-year option and the house didn't get built, the applicant would have to remove it, period.

Frank asked Mike if he was comfortable with and able to comply with the temporary dwelling option where he'd have to remove it after 5 months for a month. Mike said he was on board with that. He was going to sell the property and move on. At that time, he would pull it out. If someone bought it, he'd have to disclose that they couldn't have it there. Two years would buy him the time.

Steve asked if the boundary line adjustments would affect the setbacks. Mike said they weren't significant. He spoke briefly about the benefit and convenience this would provide for the neighbor and his vehicles. It moved the south boundary 40 feet into his property. The trailer was closer to the northern boundary, about 200 feet away.

*Public comment opened:*

A. David Stoddard asked what the purpose of the law was, with the 5-month criteria. He knew people in the neighborhood who stored RV's there for all but 2 months of the year. Frank said it was 5 months of use and 1 month away. Merle checked if David was talking about storage or living in the RV's. Jacob understood the zoning was citizen-initiated by the people who lived along the shoreline. Those citizens initiated the zoning and the idea was to keep these temporary structures from lining the lake amongst high-end homes. That was part of it. The other part was to be able to monitor sanitation and to make sure those things were approved and taken care of. They'd dealt with some

where there was an RV and the septic was dumped on the ground or people tried to haul it in barrels or they had a sump truck pick it up. By monitoring that, they kept those kinds of circumstances from coming up. There were multiple reasons. Frank checked that a lot of the guidelines came from standard practices that had been adopted over the years. Jacob agreed and added that this was not unique to the East Shore. It was throughout zoning districts in Lake County. The main driver behind them was public health and safety.

The conversation diverged onto development of zoning, public comment, views on zoning and zoning amendments. David indicated disagreement with the 30-day removal.

The Board looked at the public comment from Richard Nash included in the packet, who supported the 30-day removal.

*Public comment closed.*

Steve suggested they give Mike Murphy the choice of whether he wanted the '2-year and then it's over' option or the '5 months on & 1 month off' option. Mike said the 2-year option was good for him since he planned on selling and moving. When he sold this thing, would someone else be subject to that as well? Steve thought if the trailer was taken off and the property was sold and considered vacant, that person could apply to have a temporary dwelling while they built their house. Frank highlighted that Mike would want to disclose that in the sale. Jacob said this review was advertised to the adjacent neighbors and to the public as seasonal basis, not the 2-year construction basis. The comments they received from Richard Nash concerned the seasonal basis, not the other options. Jacob said it fit the definition of a temporary dwelling either way, even though they didn't advertise it as a two-year construction period. They would have to enforce the two years. Wally thought if they went to two years, since it was advertised as a temporary dwelling, that was 2-year temporary. Then you'd qualify either way.

Frank asked about the written comment received from Richard Nash. It wouldn't be removed for 30 days. Wally said they could meet either one. The problem was that if it was sold in 6 months, whoever bought it had another year and a half to put their RV on site. If you allowed this use for this particular structure, it was a nonconforming use with a legal variance. The question was if you switched RV's, did it make it run on or not? It would not run on if it was a building. They might want to have the conversation on that question now. Mary confirmed with Wally that they wouldn't have 2 years from the date of the sale. Frank asked if the permit went with the land or the owner. Wally replied it went with the land but in this case, it went with this structure. Was it for any RV or for this RV? If they wanted it to be for any RV, they should specify that so the new owner would have the remainder of the term to do it. Then it was clear.

Steve asked what would happen if a new owner applied down the road for a temporary dwelling while building. Wally said he could apply for another conditional use to do that. Steve thought the important thing to know was if the applicant took the two-year option, he would then need to take the trailer off and not put it back on. If he sold the

property during the 2 years, the new owner could do the same thing that Mike had done, but he needed to apply for a new conditional use permit for the new trailer. The next owner would have his own plan. Frank noted that Mike Murphy could sell the trailer with the property. Steve responded if he did that, the new owner would have to pull that trailer off the property at the end of the two years.

The Board discussed condition #1 on pg. 19. Jacob suggested scratching 'seasonal' and adding 'for a construction period of 2 years' in the first sentence. Steve asked about allowing either option. Jacob thought they'd want to lock to one or the other. Frank confirmed with Mike that he wanted the 2-year option. Frank noted that the portion of condition #1 after the first sentence could be deleted. Jacob asked if the Board wanted to identify when the 2 years started. Mary thought that was a good idea. Steve suggested from the issuance of the approval letter.

Jacob confirmed for Steve that a zoning conformance would be needed and setbacks and so forth would be checked. Mike mentioned a little part of it, 10 feet at the back corner, was about 35 feet from the lake instead of 50 feet. He could pull the trailer forward 10 feet. On the front side it was over 70 feet. The trailer was 36 feet long. Steve observed the trailer was parallel to the shoreline. If Mike pulled it forward, wouldn't it stay about the same distance from the shore? Mike said it changes with the storm swells, which affected the rocks and meandered. He'd be cutting down trees if he moved it 10 feet. He was moving boulders and removing plumbing in addition to the electrical and the water lines. Steve suggested that an option would be to apply for a variance on the setback when he applied for the zoning conformance for the temporary dwelling. The Board would see where that went. Frank asked if it would be a big deal to move it. Mike said it would be to him. Trees, which were part of the beauty, would have to be cut down, the plumbing would need to be moved, and machinery brought in to dig it up, and the boulders and other landscaping would have to be torn up to do it. Steve said it was something Mike would have to decide. If the Board approved the conditional use, Mike could use that temporary dwelling legally. He would have to be sure it was located in the right spot or have a variance if it was located in the wrong spot. If Mike moved it into the right spot, he wouldn't need the variance, otherwise he could apply for the variance. A variance might be approved or denied.

A. David Stoddard objected to the Board not issuing a setback variance [tonight]. The Board members explained that it hadn't been advertised so they couldn't issue a legal variance for that.

Steve asked about the 2-year timeframe, the approval letter and zoning conformance. Jacob clarified that the approval letter [for the conditional use] would go out next week. He couldn't say when the things needed to issue the zoning conformance would be received. He recommended tying the 2-year timeframe to the [conditional use] approval. Steve checked with Mike, who was okay with that. Jacob reminded that the setback issues, sanitation requirements and so forth would need to be met prior to a zoning conformance permit being issued.

**Motion made by Steve Rosso, and seconded by Don Patterson, to approve the conditional use with findings of fact, conditions and terms as modified. Motion carried, all in favor.**

**HAMMEL VARIANCE—EAST SHORE (4:52 pm)**

Clint Evenson presented the staff report. (See attachments to minutes in the October 2017 meeting file for staff report.)

Referring to pg. 10, item #9 and the requirement for an updated building plan, Clint confirmed for Steve that the plan shown here was the current plan. The building being built was different than [the plans]. He also confirmed that when the additions [permitted] for the existing structure were begun, the applicants found out the existing building wasn't structurally sound so they tore it down and started from the foundation. The footprint was the same, with the additions added to the footprint. The shape of what they used for the design they gave staff should be the same. The screened-in porch would be on the north side. Dan Getman (agent for the applicant) said he would show that when he brought in drawings.

Steve turned to photo 1 in attachment 6. Clint identified that this was the east side. Steve thought it was a patio that looked like a deck.

Frank asked which property attachment 2 looked at, and Clint described where to find the address printed on the image.

Merle asked if Anthony Controulis, who'd written a letter regarding the easement, was here. Dan said he was not. Frank and Merle said that was a private issue between the two parties.

Frank asked Nancy Hammel if she wanted to comment. She did not. Dan Getman, agent, clarified he was aware of the setback on that corner of the house. They had to get the variance since the way the original house was built was not up to current building standards. He gave some details. They needed the variance to carry on even though more than half the structure had to be changed out.

*Public comment opened:*

Frank asked a group if they had comments. They explained they were observing.

A. David Stoddard asked when the code regarding leaving 50% of the building was passed. He thought that had changed. Jacob and Board members explained that was in the zoning regulations. Jacob further clarified that the zoning came into place in 1991. If it wasn't [done] then, it was in an amendment that followed. The last amendment was done in 2008. David asked about the wording of that section of the regulations and Jacob offered to read it. David asked further questions regarding if 50% of the structure had stayed, they wouldn't need a variance. Clint clarified that they were approved for the additions. They destroyed over 50% of a legally non-conforming structure. He pointed to the drawing that showed a portion exceeding the setbacks. The additions were okay

with the setbacks. David asked if they could do additions to a nonconforming building. Jacob said as long as they didn't expand the nonconformity, they could do an addition. David concluded as long as it didn't create more nonconformance, it was okay.

*Public comment closed.*

Steve asked for clarification on the question of the setback from the neighbor's orchards and whether the orchards were being actively used. Clint said this application wasn't about those 50-foot setbacks to the east. Staff were just verifying that it was 50 feet. It was confusing; the fence to the east was only 20 feet away but per the property pins, it was over 50 feet. It was misleading when you looked at the map. Jacob added the first rows of the orchard belonged to Nancy Hammel. She didn't have to be set back from her own orchard.

Steve adjusted the wording on pg. 15 in condition #2 to change 'reconstruct' in the first line to 'reconstruction of'. In condition #3, in the second line, he added 'and site plans' after 'building plans' since Clint thought it would be helpful to see it with new dimensions for the new zoning conformance. In condition #4, 'A' changed to 'As' for the first word of the condition.

**Motion made by Frank Mutch, and seconded by Don Patterson, to approve the variance with findings of fact, recommendations conditions and terms as amended. Motion carried, all in favor.**

Dan commented the staff had been very helpful through this process.

Frank asked Clint to introduce himself. Clint did so.

#### **MINUTES (5:13 pm)**

On pg. 3, Mary corrected 'Hi understanding' to 'His understanding' in the second line. On pg. 2, in the last line before 'public comment' and also in the 2<sup>nd</sup> line of the paragraph beginning with 'Jacob', Steve, with input from Jacob, replaced 'conditional use' with 'zoning conformance process'.

**Motion made by Frank Mutch, and seconded by Mary Jensen, to approve the Sept. 13, 2017 meeting minutes as amended. Motion carried, all in favor.**

#### **OTHER BUSINESS (5:24 pm)**

Lita reminded fall processes with renewal requests and so forth would start soon.

David Stoddard asked about adjacent notices for building permits. He had never received one. Frank clarified those went to the directly adjacent neighbors for only variances and conditional uses, or subdivisions. Jacob further clarified [notice was sent] only if it had to go to a public hearing.

**Frank Mutch, chair, adjourned the meeting at 5:30 pm.**